

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JOSE RIVERA,

Plaintiff,

DECISION AND ORDER

04-CV-6279L

v.

KATHLEEN WASHBURN,

Defendant.

Plaintiff, Jose Rivera, filed a *pro se* motion for leave to file a second amended complaint. United States Magistrate Judge Marian W. Payson issued a detailed Report and Recommendation (Dkt. #41) recommending that the motion be granted in part and denied in part. Neither plaintiff nor defendant have filed any objections to the Report and Recommendation, although the time within which to do so has lapsed.

I have reviewed Magistrate Judge Payson's thorough Report and Recommendation (Dkt. #41) in which she discusses the law and the several amendments that are sought to be included in the proposed second amended complaint. I believe Magistrate Judge Payson accurately discusses the relevant legal authority and has correctly applied it to the particular facts of this case. Based on my review, I see no reason to modify or amend the Report and Recommendation.

CONCLUSION

I adopt and accept the Report and Recommendation (Dkt. #41) issued by United States Magistrate Judge Marian W. Payson. I grant plaintiff's motion to file a second amended complaint, in part and I deny it part, as recommended in Magistrate Judge Payson's Report and Recommendation.

IT IS SO ORDERED.



DAVID G. LARIMER
United States District Judge

Dated: Rochester, New York
November 9, 2006.